

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DUCHUN LAFRE GOODWIN,
Plaintiff,
v.
MICHAEL M. YAMADA,
Defendant.

No. 1:23-cv-0345 JLT EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THE ACTION WITHOUT PREJUDICE

(Doc. 7)

Duchun Lafre Goodwin, proceeding *pro se* and in *forma pauperis*, asserts he suffered violations of the Fair Housing Act and the Civil Rights Act of 1991. (*See* Doc. 1 at 4.) The magistrate judge reviewed the complaint pursuant to 28 U.S.C. § 1915, and found Plaintiff failed to state a cognizable claim. (Doc. 4 at 3-6) The magistrate judge granted Plaintiff leave to amend the complaint. (*Id.* at 6.) In the alternative, the Court informed Plaintiff that he “may choose to stand on the complaint,” in which case the magistrate judge would recommend dismissal. (*Id.*) Plaintiff was granted 30 days from the date of service to either file amended complaint or notify the Court he would stand on the initial complaint. (*Id.* at 7.) However, the Court’s order was returned as undeliverable on April 4, 2023.

Plaintiff filed a motion for extension of time to serve the complaint, which was denied on April 14, 2023. (Docs. 5, 6.) Addressing the motion for an extension of time, the magistrate judge directed the Clerk of Court to also serve a copy of the screening order. (Doc. 6 at 2.)

1 However, Plaintiff did not respond to the screening order after it was re-served.

2 On May 23, 2023, the magistrate judge found Plaintiff failed to prosecute the action by
3 not responding to the screening order, and recommended the action be dismissed without
4 prejudice. (Doc. 7.) The Findings and Recommendations were served upon Plaintiff the same
5 day and it notified him that any objections must be filed within fourteen days. (*Id.* at 4.) In
6 addition, the Court informed him that the failure to file timely objections “may result in the
7 waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir.
8 2014), *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).)

9 The day after the Court served the Findings and Recommendations, Plaintiff filed the first
10 page of the Court’s complaint form, with only the case number completed (Doc. 8). The
11 following week, Plaintiff filed a motion to consolidate several cases pending before the Court
12 (Doc. 9) and a motion to set aside default judgment (Doc. 10). Importantly, these filings do not
13 address Plaintiff’s failure to timely respond to the screening order— by filing an amended
14 complaint or choosing to stand on his initial complaint—and do not address the determination
15 that he did not state a cognizable claim. To date, Plaintiff has not filed objections to the Findings
16 and Recommendations.

17 According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of the case.
18 Having carefully reviewed the entire file, the Court concludes the Findings and
19 Recommendations are supported by the record and proper analysis. Although Plaintiff has filed
20 additional documents in this action, he did not take any action in response to the Court’s order
21 directing him to file an amended complaint to cure the deficiencies of his complaint. In that
22 manner, Plaintiff has failed to prosecute his claims in this action. Thus, the Court **ORDERS**:

- 23 1. The Findings and Recommendations issued on May 23, 2023 (Doc. 7) are
24 **ADOPTED IN FULL.**
- 25 2. This case is **DISMISSED** without prejudice.
- 26 3. Plaintiff’s motions to consolidate and set aside a default judgment (Docs. 9, 10)
27 are terminated as **MOOT.**

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1 4. The Clerk of Court is directed to close this case.

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3 IT IS SO ORDERED.

4 Dated: **June 19, 2023**


UNITED STATES DISTRICT JUDGE